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May 8, 2017

Via ECF and U.S. Mail

Hon. Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Tairod Pugh
Docket No. 15 Cr. 116 (NGG)

Dear Judge Garaufis:

This letter is respectfully submitted to aid your Honor in the sentencing of my client, Tairod Pugh. Mr. Pugh is scheduled to be sentenced on May 31, 2017.

This is an unusual case. I am Mr. Pugh's third attorney, and was appointed after trial for the purposes of assisting Mr. Pugh and the Court with a myriad of issues related to sentencing. Since Mr. Pugh intends to appeal his conviction, this letter does not address acceptance of responsibility, remorse, insight into criminal behavior, or any topic common to a traditional sentencing submission that could be read to further inculcate Mr. Pugh. Rather, this submission addresses why a non-guidelines sentence is sufficient, but not greater than necessary to meet the goals of sentencing as outlined in 18 U.S.C. § 3553(a), in this unique case.

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Prior to trial, Mr. Pugh was offered a plea to 18 U.S.C. § 2339B(a)(1), with an effective applicable advisory Guidelines range of 180 months, the statutory maximum.¹ Now, after trial, Probation has calculated his actual Guidelines range to be 360 to 420 months, or 30 to 35 years. At the low end, such a sentence is twice as high as the maximum (and Guidelines) sentence in the plea offer initially viewed by government counsel as an appropriate disposition. As addressed more fully below, given: (1) Mr. Pugh's history and characteristics, including his service in the United States Air Force, his age and lack of criminal history; (2) a [REDACTED], which led to distrust of his attorneys and poor decision-making; (3) the fact that the government viewed a sentence of 180 months to be reasonable for this defendant in a pre-trial context; and (4) a review of the sentences received by similarly situated defendants in attempted material support cases across the country, it is respectfully submit that a non-guidelines sentence is reasonable and appropriate in this case.

I. Objections to the Pre-Sentence Report

Mr. Pugh intends to appeal his conviction. As such, there are a number of facts outlined in the offense conduct section of the PSR to which he objects. We have elected not to contest these facts at sentencing. However, our failure to raise these objections to

¹ With an adjusted offense level of 37 and a Criminal History Category of VI, the original range of imprisonment was 360 months to life; however because the statutory maximum sentence was 15 years, pursuant to 18 U.S.C. § 2339B(a)(1), the defendant's effective applicable advisory Guidelines range was 180 months.

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the PSR should not be construed as a waiver of Mr. Pugh's right to contest these facts on appeal.

a. Probation Applies the Wrong Guideline to Establish the Base Offense

Probation relies upon U.S.S.G. § 2M5.3 to determine the base offense level in this case; however, an "attempt" to violate 18 U.S.C. § 2339B(a)(1) is not covered by this Guideline. Accordingly, the base offense level must be determined under U.S.S.G. § 2X1.1, which covers "attempts, solicitations and conspiracies" that are not specifically covered by another Guideline provision.

Unlike U.S.S.G. § 2M5.3, § 2X1.1 considers the inchoate nature of Mr. Pugh's offense in two ways. First, under subsection (b), if the offense was an attempt, the level is decreased by 3 levels, "unless the defendant completed all the acts the defendant believed necessary for successful completion of the substantive offense or the circumstances demonstrate that the defendant was about to complete all such acts but for apprehension or interruption by some similar event beyond the defendant's control." Neither exception applies here. Assuming *ex arguendo* that Mr. Pugh is guilty of attempt under 18 U.S.C. § 2339B(a)(1), as we do throughout this submission, there is no evidence that he "completed all the acts [he] believed necessary for successful completion of the substantive offense." Further the evidence does not "demonstrate that [he] was about to complete all such acts but for apprehension or interruption by some similar event beyond [his] control." U.S.S.G. § 2X1.1(b)(1). Second, if our analysis proceeds, as it should,

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under §2X1.1, there is no 2-level upward adjustment per § 2M5.3(b)(1)(E) as contemplated in paragraph 21 of the PSR.

b. Objection to the Terrorism Enhancement

We also object to the application of the Terrorism Enhancement under U.S.S.G. §3A1.4 in this case. Our objection to the application of this enhancement is discussed in further detail below.

c. Other Objections

Paragraph 53 states that there is no record of Mr. Pugh's divorce from Sheila Anderson on file with the South Carolina Vital Records office. Upon information and belief, a copy of the divorce decree was among the belongings seized from Mr. Pugh incident to his arrest.

Paragraph 53 further states that Mr. Pugh was "in arrears" on child support payments and could not pay the required \$667 per month. Mr. Pugh states that he often made many of his child support payments directly to Ms. Anderson through Western Union. He now understands that these payments were never deducted from the total owed because he did not make them through the court, but at the time, he made the payments in good faith with the intention of legitimately contributing to the support of his children. Mr. Pugh has provided counsel with Westerner Union MCTN tracking numbers that reveal that between February 10, 2014 and January 6, 2015, Mr. Pugh wired a total of

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\$3,780 to Ms. Anderson for child support. Additionally, from January 2014 through August 2014, Mr. Pugh was employed by STS Services, and his employer automatically deducted an agreed-upon amount (\$137/week) for child support.

We have no further objections to the PSR.

II. Procedural History

On January 17, 2015, Mr. Pugh was arrested on the basis of a complaint charging him with attempting to provide material support to a foreign terrorist organization. On that date, Michael K. Schneider of Federal Defenders was assigned to represent him. Mr. Schneider represented Mr. Pugh until June 9, 2015, when CJA attorney Eric M. Creizman was appointed in his place.

On March 16, 2015, Mr. Pugh was indicted on two counts: (1) Attempt to Provide Material Support to a Designated Foreign Terrorist Organization under pursuant to 18 U.S.C. § 2339B(a)(1); and, (2) Obstruction and Attempted Obstruction of an Official Proceeding, pursuant to 18 U.S.C. § 1512(c)(1).

On March 9, 2016, after a four-day trial, Mr. Pugh was convicted on both counts. At a status conference held on April 21, 2016, present counsel was appointed. The government was directed to inform the Court whether a de-radicalization program might be appropriate for Mr. Pugh. Reasoning that ‘the Minnesota de-radicalization initiative is still in the very early stages of development’, the government took “no position

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concerning its potential application to the defendant, Tairod Pugh.” The appropriateness of such a placement for Mr. Pugh is discussed in further detail below.

III. The Psychological Report

Shortly after my appointment, I asked the Court to appoint Dr. Sanford Drob, a psychologist, to evaluate Mr. Pugh’s mental state. In my discussions with my client, it was my sense that he [REDACTED]
[REDACTED]. It was my hope that a psychological evaluation would provide us with a better understanding of the challenges that Mr. Pugh might be facing. Dr. Drob’s report is attached as Exhibit A.

Dr. Drob administered a number of psychological tests. According to the results of the Millon Clinical Multiaxial Inventory III (MCMI III), Mr. Pugh has [REDACTED]
[REDACTED] Dr. Drob explained:

[REDACTED]

While Dr. Drob [REDACTED],” he found that Mr. Pugh [REDACTED]

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[REDACTED]”.² (Exhibit A, p. 10.) [REDACTED]
[REDACTED].

Dr. Drob also administered the Rorschach Inkblot Method (RIM), which is used to assess “the logic and coherence of the examinee’s thinking, his/her reality testing, and the manner in which the examinee processes information from the environment.”

(Exhibit A, p. 10.) Based on Mr. Pugh’s responses to this test, and consistent with his clinical and other test findings, Dr. Drob found indications that Mr. Pugh [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED].” (Exhibit A, p. 11.) Dr. Drob further explained:

[REDACTED]

After examining Mr. Pugh and conducting these and other tests, Dr. Drob interviewed Mr. Pugh’s father, Horace Pugh, and his aunt, Mary Wilson-Freeland,

² This may help to explain Mr. Pugh’s letter to your Honor in which he asks the Court to purchase an extraordinarily expensive yacht for his wife, so that need not worry about her while he serves his sentence. See Exhibit E – listing of yachts for sale provided by Mr. Pugh to aid the Court in its selection.

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and reviewed approximately a dozen letters written by Mr. Pugh to counsel. Dr.

Drob reached the following conclusion³:

[REDACTED]

[REDACTED]

[REDACTED]

(Exhibit A, p. 12.)

IV. The History and Characteristics of Tairod Pugh

Tairod Pugh is 48 years old. He was born at Mt. Sinai Hospital in New York on June 11, 1968. Mr. Pugh's parents are divorced. His father, Horace Pugh, age 67, is retired after a career with the United States Air Force, and lives in Asbury Park, New

³ As indicated in his report, Dr. Drob also conducted the DSM-V Severity of Posttraumatic Stress Symptoms Inventory and the Dissociative Experiences Scale (DES).

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Jersey. Mr. Pugh's mother, Barbara Wilson, age 65, lives in Iffingham, South Carolina.

Mr. Pugh has two younger sisters, Selena, age 46, and Katrina, age 41, who live in South Carolina with their mother.

When Mr. Pugh was growing up, his father was in the military, and the family moved around a great deal, living on military bases in the United States and Europe. In interviews with Dr. Drob, Tairod Pugh revealed a childhood history of [REDACTED]

[REDACTED] According to Dr. Drob's report,

[Mr. Pugh] reports a history of [REDACTED]

(See Drob Report, p. 2.) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

Mr. Pugh got his first job in New York at age 15, lying about his age to get a position at an Orange Julius store. His age notwithstanding, he worked hard and was ultimately promoted to manager. For as long as he can remember, Mr. Pugh has loved working and hated being idle. Whenever he had time on his hands, he would get depressed and think about his bad experiences. Working – getting a job done, having a purpose – was a respite from his often-overwhelming sadness.

In 1986, after graduating from Julia Richman High School in Manhattan, Mr. Pugh enlisted in the Air Force. He was 18 years old. The military was familiar, and joining the military felt comfortable and cognizable. Mr. Pugh enjoyed the rigors and structure of military life and threw himself into whatever was asked of him, striving to do the best job possible. Mr. Pugh was 20 years old and stationed in England when his grandmother died. Her death was devastating for him. Ms. Wilson was “the most important person” to him, and the only parental figure in his life that seemed to love him and show any interest in his well-being. Mr. Pugh came back to the United States for the funeral. He would serve for six more months in England, before being transferred to a base in Tuscon, Arizona. While in the military, Mr. Pugh earned a journeyman’s certificate in Avionic Systems, which certified that he could work independently on

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avionic computer systems. In all, Mr. Pugh served four years, from 1986 to 1990, and was honorably discharged as a class E-4 Senior Airman.

After leaving the military, Mr. Pugh returned to Harlem, New York, where he lived with his aunt Mary Wilson Freeland and got a job as a toll booth operator for the Triborough Bridge and Tunnel Authority, an affiliate agency of the Metropolitan Transportation Authority. He held that job for six months, before taking a commission-based position with Kirby Vacuums, selling vacuums door-to-door. After only selling three vacuums in one month's time, Mr. Pugh decided to go back to school. He attended trade school from 1991-1995, first in Utica, New York, and then in Conway, South Carolina, studying aircraft maintenance and earning certificates that qualified him to work on aircraft engines, electronics, and other aircraft systems.

Mr. Pugh was raised in the Hebrew Pentecostal faith, and consistent with this, was given a Bar Mitvah at age 13. He never felt an affinity for the religion, which appeared to discourage searching or questioning, and was presented instead as a take-it-or-leave-it proposition. As he grew into adulthood, Mr. Pugh found himself looking for God. He had always been attracted to Jerusalem and Middle Eastern Culture, and Islam made sense to him because, as he understood it, adherents were encouraged to think, search, and debate religious principles, and to accept them consciously rather than blindly. Mr. Pugh converted to Islam in 1995.

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Since 1995, and for the next twenty years, Mr. Pugh worked steadily on airplanes as an independent contractor. He reports earning a good living, taking on assignments that would last anywhere from a few days to 6-7 months at a time. His favorite jobs were the ones in which he was contracted by the U.S. military to work on military aircraft.⁵ In contrast with his work in civilian aviation, Mr. Pugh felt that the military demanded and appreciated quality work. He liked the military because it gave his life the structure he required, set high standards, set out well defined objectives, didn't cut corners, and gave him sufficient time to do his best. Even today, he remains proud of the contribution he made to the United States military effort.

For Tairod Pugh, working overseas was a way of putting distance between himself and his miserable past. That said, it is important to Mr. Pugh that the Court knows that he forgives his parents [REDACTED] [REDACTED]

[REDACTED]. While it

⁵ As a contractor working for the U.S. military, Mr. Pugh worked on the following aircraft:

- Sikorsky S-92 (helicopter)
- OH-58 Kiowa Warrior (helicopter)
- UH-60 Black Hawk (helicopter)
- AH-64 Apache (helicopter)
- CH-47 Chinook (helicopter)
- AC-130 Gunship (airplane)
- KC-135 Stratotanker (refueling airplane)
- A-10 Warthog (airplane)
- E-8C (surveillance airplane)

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still causes him great pain to reflect on his past, Mr. Pugh decided long ago that it was easier to forgive than to hold onto negativity, and he has worked hard at cultivating adult relationships with both of his parents. In addition to the letter of support from his sister Selena McCray, mentioned above, we have received a letter from Mr. Pugh's mother, Barbara Pugh, attached as Exhibit C, and a letter from Mr. Pugh's aunt, Mary Wilson Freeland, attached as Exhibit D. These letters describe a loving brother, nephew and son who cares about the well-being of his family. While we have not received a letter from Mr. Pugh's father, he did respond telephonically to Dr. Drob's entreaties for insight into his relationship with his son.

In her letter to the Court, Mr. Pugh's sister, Selena McCray, writes that 22 years ago when she was [REDACTED]

[REDACTED]
[REDACTED]. (See Exhibit B.) In contrast, Tairod Pugh made her feel loved. She writes that he telephoned "constantly" and sent her money and herbs to build her immune system every month. (Id.) And when he came home to visit, he treated Ms. McCray like a human being, touching her, and letting her cook his food and wash his clothes. (Id.) Ms. McCray also recalls her brother's total support of the family. "Any time we as a family called he was there to lend a hand. Whatever we need he did arms + pocket wide open." She views her brother as someone who needs help, and asks the Court to treat him with

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mercy. (Id.) Similarly Barbara Pugh, Mr. Pugh's mother, makes a plea for help for her son:

I know Tairod need help and is asking for help for him. Tairod wanted a family and to belong. When Tairod marry fell apart and was not working running away was his answer. Tairod love family and when he do come home I saw a different in him, when all the family was around. Yes then the Tairod I know come out.

(See Letter from Barbara Pugh, attached as Exhibit C.)

V. The Offense Conduct

Mr. Pugh was convicted of attempting to provide material support and resources to a foreign terrorist organization, in violation of 18 U.S.C. §§ 2339B(a)(1) and 2339B(d) (Count I). He was also convicted of obstruction and attempted obstruction of an official proceeding, in violation of 18 U.S.C. §§ 1512(c)(1), and 1512(c)(2).

VI. An Analysis of Sentences Received by Similarly Situated Defendants

In sentencing Mr. Pugh, this Court is instructed to consider, among other things, the need to avoid unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct. See 18 U.S.C. § 3553(a)(6). A review of the sentences that are generally imposed in attempted material support cases across the country demonstrates that individuals convicted of the same offense as Mr. Pugh largely receive sentences at or below 10 years.

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As a starting point, from September 2001 through July 2007, 108 defendants were charged with at least one count of violating 18 U.S.C. § 2339B.⁶ At the time of Professor Chesney's report, thirty of the defendants had pled guilty and proceeded to sentencing.⁷ The mean sentence of these thirty defendants was either 122.73 months or 118.73 months.⁸ For the 23 defendants who entered guilty pleas, the mean sentence was either 107.91 months or 102.70 months.⁹ For the 12 defendants who specifically pleaded guilty to conspiracy to provide material support – the mean sentence was 82.83 months.¹⁰ And in 2012, the United States Sentencing Commission reported that the mean sentence imposed between 2008 and 2012 for providing material support to designated foreign terrorist organizations or for terrorist purposes was 111 months, a calculation that makes no distinction between defendants who pled guilty and those who were convicted after trial.¹¹

Most recently, in 2016, the Center on National Security at Fordham Law School released a report analyzing the first 101 ISIS-related cases to proceed in U.S. Courts. Of

⁶ See Robert Chesney, *Federal Prosecution of Terrorism-Related Offenses: Conviction and Sentencing Data in Light of the "Soft Sentence" and "Data Reliability" Critiques*, 11 Lewis and Clark L. Rev. 851, 884 (2007) ("Chesney Analysis"), available at <http://bit.ly/1R4Hf9H>

⁷ See Chesney Analysis at 885.

⁸ See Chesney Analysis at 886, T.7. Two means are calculated because some defendants received different sentences on two separate counts of violating 2339B. The first mean is calculated using the high sentence; the second is calculated using the low sentence.

⁹ See Chesney Analysis at 886, T. 8.

¹⁰ See Chesney Analysis at 888.

¹¹ See United States Sentencing Commission, *Quick Facts: Offenses Involving National Defense* (2012), at p. 2, available at <http://bit.ly/1HkM5xv>

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the 14 defendants who had been sentenced at the time the report was issued, the mean sentence received was 9.2 years.¹² Since that report was issued, at least 29 more defendants listed in the report have been sentenced, raising the total number sentenced to 43. The mean sentence of all 43 defendants is 10.5 years.

Finally, we conducted our own review of *attempted* material support cases under 18 U.S.C. § 2339B in all circuits, as well as material support *conspiracy* cases when the offense conduct was comparable to the conduct for which Mr. Pugh was convicted, namely, traveling or taking substantial steps toward travel overseas, with a goal of joining ISIL or another designated foreign terrorist organization. Of the 22 such cases we identified, three involve defendants who cooperated with the government. For this reason, we excluded their sentences from our calculations. Among the remaining 18 defendants, the mean sentence was 133.8 months, or a little more than 11 years, with 50% (9 out of 18) defendants receiving sentences of 10 years or less, 5 receiving sentences between 11 and 13 years, and 4 receiving sentences of 15 years. Further, among the 4 who received 180 month sentences – only two received the statutory maximum. (*See Table A-1; Attempted Material Support Cases, All Circuits attached as Exhibit E.*)

¹² See *Case by Case: Isis Prosecutions in the United States, March 1, 2014 – June 30, 2016*, Center on National Security at Fordham Law School, available at <http://www.centeronnationalsecurity.org/research>

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A survey of the alleged conduct in these cases, included below, demonstrates that a sentence far below the guidelines for Mr. Pugh is sufficient, but not greater than necessary to meet the goals of sentencing under 18 U.S.C. §3553(a).

Cases Surveyed

1. *U.S. v. Mohamed Bailor Jalloh*, 16 Cr. 163, Eastern District of Virginia, February 10, 2017. Mr. Jalloh, age 26, made several attempts to join ISIL; the first, in his native Sierra Leone, where he met with an ISIL facilitator, the second in Niger where he met with the same facilitator. He also provided \$ to a facilitator, to another ISIL figure plotting attacks on the U.S., participated in a plot to murder U.S. military personnel, and purchased an AR-15 for that purpose. Mr. Jalloh pled guilty to one count of attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge Liam O'Grady to 132 months (11 years) in prison. He faced a maximum of 20 years.
2. *U.S. v. Joshua Van Haften*, 15 Cr. 37, Western District of Wisconsin, February 17, 2017. Mr. Van Haften, age 36, was arrested on his way to Syria to join ISIS. Federal anti-terrorism agents were tracking the defendant for some time, before immigration officials caught him in Turkey in 2014. He was sent back to the U.S., where he was arrested at Chicago's O'Hare Airport. Some of the evidence against him includes an online post swearing allegiance to ISIS, saying "the only thing that matters to me is joining my brothers for the war against America liars." Mr. Van Haften pled guilty to one count of attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge James D. Peterson to 120 months (10 years) in prison. He faced a maximum of 15 years.
3. *U.S. v. Justin Kaliebe*, 13 Cr. 72, Eastern District of New York, January 20, 2016. Mr. Kaliebe, age 18, attempted to travel from the United States to Yemen for the purpose of joining AQAP and waging violent "jihad." The defendant was arrested on January 21, 2013 as he attempted to board a flight from John F. Kennedy Airport ("JFK Airport") in Queens, New York to the Middle East for the purpose of joining AQAP. Evidence included frequent meetings with undercovers in which he expressed this intent. Mr. Kaliebe pled guilty to two counts of attempted material support under 18 U.S.C. § 2339B and was sentenced by Denis R. Hurley to 156 months (13 years) in prison. He faced a maximum of 30 years.

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4. *U.S. v. Joseph Hasan Farrokh*, 16 Cr. 64, Eastern District of Virginia, July 15, 2016. Mr. Farrokh, age 29, conspired with co-defendant Mahmoud Amin El Hassan to travel to Syria to join and fight for ISIL. Farrokh and Elhassan had numerous communications, using secure apps, about their plans. Farrokh was arrested as he went down the jet way to catch his flight. He pled guilty to one count of attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge Anthony J. Trenga to 102 months (8.5 years) in prison. He faced a maximum of 20 years.
5. *U.S. v. Mahmoud Elhassan*, 16 Cr. 64, Eastern District of Virginia, February 24, 2017. Mr. Elhassan, age 25, recruited co-defendant Joseph Farrokh to join the Islamic State and aided his efforts to travel to Syria and Iraq to join the terrorist organization. The government believed he planned to join Farrokh at a later date or to continue to operate as a sleeper cell supporting the cause remotely. Mr. Elhassan pled guilty to attempted material support under 18 U.S.C. § 2339B and to 18 U.S.C. 1001 for making false statements to the FBI about his conduct and was sentenced by Judge Anthony J. Trenga to 132 months (11 years) in prison. He faced a maximum of 28 years.
6. *U.S. v. Alaa Saadeh*, 15 Cr. 558, District of New Jersey, May 10, 2016. Mr. Saadeh, age 24, planned to travel overseas to join, and fight for, ISIL. The defendant also helped his brother successfully travel overseas for the same purpose, letting him purchase airline tickets using Saadeh's credit card, removing the SIM card from his brother's smartphone and resetting the smartphone in an effort to avoid detection, and giving his brother contact information for an individual who would facilitate his travel from Turkey to ISIL in Syria. Mr. Saadeh pled guilty to material support under 18 U.S.C. § 2339B and was sentenced by Judge Susan Wigenton to 180 months in prison (15 years). He faced a maximum of 20 years.
7. *U.S. vs. Nicholas Teausant*, 14 Cr. 87, Eastern District of California, June 7, 2016. Mr. Teausant, age 20, was apprehended at the Canadian border allegedly on his way to join ISIS in Syria, after authorities saw posts he made on social media sites about his desire to conduct violent jihad. Mr. Teausant pled guilty to attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge John A. Mendez to 144 months (12 years) in prison. He faced a maximum of 15 years.
8. *U.S. v. Zacharia Yusuf Abdurahman*, 15 Cr. 49, District of Minnesota, November 14, 2016. Mr. Abdurahman, age 19, and three other men (Hanad Musse, Hamza Ahmed, and Mohamed Farah)—took a Greyhound bus from Minneapolis to New

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York in November 2014 and were stopped by federal agents as they tried to travel overseas from JFK Airport. Prosecutors said they were part of a group of friends who began inspiring and recruiting each other to join the Islamic State group in the spring of 2014. Some of their friends made it to Syria, but the nine who were prosecuted did not. Three went to trial and were convicted of a conspiracy to commit murder outside of the United States in addition to material support, receiving lengthier sentences. Mr. Abdurahman and three others did not cooperate, pleading guilty to conspiring to provide material support under 18 U.S.C. § 2339B. Mr. Abdurahman and two others (Hanad Musse, age 19 and Adnan Farah, age 19) were sentenced by Judge Michael J. Davis to 120 months (10 years) in prison. All three faced maximums of 15 years. The fourth, Hamza Naj Ahmed, age 21, was charged with an additional count of financial aid, and was sentenced to 180 months (15 years) in prison. Mr. Ahmed faced a maximum of 20 years.

9. *U.S. v. Jaelyn Young*, 15 Cr. 98, Northern District of Mississippi, August 12, 2016. Jaelyn Young, age 19, an American from Vicksburg, Mississippi, attempted to move to Syria with her fiancé Mohammad Dakhalla, age 22, to join ISIS to work as a medic. Ms. Young and Mr. Dakhalla engaged in numerous conversations on social media sites with FBI agents disguised as ISIS recruiters. They were apprehended on their way to the airport, and pled guilty to conspiring to provide material support under 18 U.S.C. § 2339B. Ms. Young who admitted to being the mastermind of the plan, was sentenced by Judge Sharion Aycock to 144 months (12 years) in prison. Mr. Dakhalla was sentenced to 96 months (8 years). Both faced maximums of 15 years.
10. *U.S. v. Adam Dandach*, 14 Cr. 109, Central District of California, July 25, 2016. Mr. Dandach, age 22, was initially charged with falsely claiming he lost his passport, and later indicted for attempting to travel to Syria to support terrorists. Mr. Dandach communicated with two people in Syria, and made two attempts to travel and join ISIL; the first time, a family member took his passport and money so he couldn't go; the second time, he obtained a duplicate expedited passport. Mr. Dandach also engaged in post-arrest obstruction - seeking his family's help in deleting internet postings. And while detained, he composed several pro-terror writings. He pled guilty to attempted material support under 18 U.S.C. § 2339B and making a false statement on a passport application under 18 U.S.C. § 1542, and was sentenced by Judge James V. Selna to 180 months (15 years) in prison. Mr. Dandach faced a maximum of 25 years.
11. *U.S. v. Rahatul Khan*, 14 Cr. 212, Western District of Texas, September 25, 2015. Between March 2011 and January 2012, Mr. Khan, age 24, identified an individual in an Internet chatroom and began assessing that individual for overseas

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violent jihadist travel. That individual was actually an FBI confidential source. After Khan screened the confidential source, he made arrangements to insert him into an al-Shabaab pipeline. Khan also led a group of individuals in the Austin area who pledged loyalty to the now-deceased Taliban and terrorist leader, Mullah Omar. Michael Wolfe, whose case is discussed below, was a part of Khan's group. Mr. Khan pled guilty to attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge Sam Sparks to 120 months (10 years) in prison. He faced a maximum of 15 years.

12. *U.S. v. Michael Wolfe*, 14. Cr. 213, Western District of Texas, June 5, 2015. Mr. Wolfe, age 23 attempted to travel to the Middle East to lend his support to ISIL. He admitted at his change of plea hearing that in preparation, he applied for and acquired a U.S. passport, participated in physical fitness training, practiced military maneuvers, concealed his preparations, and bought an airline ticket for travel to Europe, which he believed would be the first leg of a trip to the Middle East. Instead, he was arrested on the jet way at the Houston, Texas airport as he attempted to board a flight to Toronto, Canada. Mr. Wolfe was part of a group led by Mr. Khan (see above) that pledged loyalty to a deceased Taliban leader. He pled guilty to attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge Sam Sparks to 82 months (6 years, 10 months) in prison. He faced a maximum of 15 years.
13. *U.S. v. Leon Nathan Davis*, 15 Cr. 59, Southern District of Georgia, July 28, 2015. Mr. Davis, age 37, was arrested at the Hartsfield-Jackson Atlanta International Airport as he attempted to board a flight to Turkey. The defendant had been under investigation for more than a year before he was arrested, after communicating with ISIL members via social media. At the time of his arrest, Mr. Davis was on parole for cocaine trafficking. Mr. Davis was initially charged with possession of illegal firearms by a convicted felon, and reportedly had six rifles, four handguns, and two shotguns, but that charge was later dropped. He pled guilty to attempted material support under 18 U.S.C. § 2339B and was sentenced by Judge J. Randall Hall to 180 months (15 years), the maximum.

The vast majority of these defendants, like Mr. Pugh, faced Guidelines ranges of 360-life, before the operation of any statutory caps. Yet most of them received sentences that were significantly lower than the statutory maximums. This pattern suggests that these cases, as a group, fall well *outside* the heartland of cases to which the Terrorism

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Enhancement was intended to apply. Or perhaps it suggests something else; namely, that no such heartland exists, and the Sentencing Commission's wholesale failure to develop this guideline based upon empirical data, national experience, or some rational policy basis has rendered it essentially meaningless.¹³

At 48, Mr. Pugh is concededly older than the defendants whose cases are analyzed above. In addition, Mr. Pugh went to trial, while the above defendants were sentenced after guilty pleas. These facts can cut both ways. At 48, he poses an ever-decreasing risk of recidivism; on the other hand, he proceeded to trial, which might support a longer sentence. A look beneath the surface demonstrates that a sentence below the 10-12 year range received by the majority of the defendants above is appropriate here.

First, Mr. Pugh's decision to go to trial must be viewed within the context of [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

¹³ This failure is addressed below in the discussion of our objection to the application of the Terrorism enhancement.

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]. Had he pleaded guilty to Count I, Mr. Pugh's maximum sentence would have been capped at 15 years; however, his conviction on both counts after trial is now 35 years.¹⁴

Second, Mr. Pugh's case is distinguishable from the majority of the cases outlined above, in which defendants made contact with or received instructions and/or funding from ISIL recruiters or fighters or others in Syria whom they believed could facilitate their travel or connection with the terrorist group, or joined with others who shared

¹⁴ The dramatic disparity between Mr. Pugh's exposure before and after trial is based upon his conviction for obstruction of justice under Count II, was the result of damage to electronic devices in his possession that allegedly transpired during the period between his denial of entry into Turkey at the Ataturk Airport and his detention in Egypt. In pre-trial motions, Mr. Pugh argued that this count was insufficient because he was not informed of the possibility of proceedings against him, and therefore, could not have the requisite *mens rea*. This Court found – and we do not dispute – that “[t]he fact that Pugh was not expressly informed about his imminent detention by American officials and the court proceedings that would follow does not render such events unforeseeable.” *United States v. Tairod Nathan Webster Pugh*, No. 1:15-CR-00116-NGG, 2015 WL 9450598, at *15 (E.D.N.Y. Dec. 21, 2015). Nor for the purposes of this sentencing submission, do we dispute that Mr. Pugh was wrongfully convicted. Nonetheless, the conduct for which Mr. Pugh was convicted is not the same as that of defendant who is expressly aware of a proceeding, and destroys evidence to make it unavailable for that proceeding, even if both types of conduct fall under the breadth of the same statute. It also must be viewed in the context of his precarious mental stability, including narrow attentional focus and poor decision-making capabilities.

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similar goals, and whose goals to join ISIL they helped further. Here, there is no evidence that Mr. Pugh made any connection with ISIL recruiters or members, or had any ability to do so, whatever his goals might have been when he bought a ticket for Turkey.

Third, Mr. Pugh is unique in that he is 48 years old, has no criminal record, and spent decades living a meaningful, productive, law-abiding life, after serving his country bravely and productively for four years with the U. S. Air Force. The absence of a criminal record at age 48 is more significant than it is at age 19 or 20, because it demonstrates the complete aberrance of the offense for which Mr. Pugh was convicted in the context of the rest of a long and productive life.

Fourth, the offense must be viewed in the context of the [REDACTED]

[REDACTED]

[REDACTED]

VII. The Terrorism Enhancement

a. The terrorism enhancement does not apply here, as the government has not proven that Mr. Pugh's conduct was "calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct".

The adjustment at § 3A1.4 (Terrorism) does not apply to this case. That section provides, "If the offense is a felony that involved, or was intended to promote, a federal crime of terrorism, increase by 12 levels; but if the resulting offense level is less than level 32, increase to level 32." It also provides for a Criminal History VI in all cases.

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Application note 1 to § 3A1.4 states that “federal crime of terrorism” is defined in 18 U.S.C. § 2332b(g)(5): the crime must be (1) “an offense that is calculated to influence or affect the conduct of government by intimidation or coercion, or to retaliate against government conduct”; and (2) listed in section 2332b(g)(5)(B).

Title 18 U.S.C. § 2339B is one of the enumerated crimes. However, the government has not proven (and cannot prove) that Mr. Pugh’s conduct was calculated to influence or affect the conduct of a government by intimidation or coercion, or to retaliate against government conduct. *See United States v. Stewart*, 590 F.3d 93, 138 (2d Cir. 2009) (affirming the district court’s decision not to apply the sentencing enhancement for a defendant convicted under 18 U.S.C. § 2339B when there was no evidence that he “sought to influence or affect the conduct of a government.”) In this case, there is no evidence that Mr. Pugh was in contact with members of ISIL, that he had any ability to make such contact, or that he had any specific intent to harm the United States or its citizens. Further, the offense conduct for which Mr. Pugh was convicted – purchasing a one-way ticket to Turkey and attempting to fly there – was not calculated to influence or affect the conduct of any government by intimidation or coercion, and it was not to retaliate against government conduct.

The terrorism enhancement has an extreme effect on Mr. Pugh’s sentencing guidelines, especially with respect to his criminal history. It erases the substantive difference between an attempt and a completed act. It also increases Mr. Pugh’s criminal

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history category from I to VI, a jump that is completely irrational and unsupported by any evidence or sentencing factor, and unwarranted for a man who volunteered to serve this country and was honorably discharged from the Air Force, worked hard and consistently from age 15 through 48, and has never been convicted of a crime.

b. In enacting the terrorism enhancement, the Sentencing Commission failed to develop guidelines based on empirical data.

When the Sentencing Commission fails to fulfill “its characteristic institutional role” of developing a particular guideline, or its later amendments, based upon empirical data, national experience, or some rational policy basis, the district court has the discretion to conclude that the resulting advisory range “yields a sentence ‘greater than necessary’ to achieve §3553(a)’s purposes, even in a mine-run case.” *United States v. Kimbrough*, 128 S. Ct. 558, 575 (2007); *Spears v. United States*, 129 S. Ct. 840, 843 (2009) (explaining that when the Commission fails to fulfill its institutional role, a district court can vary from the guidelines “based on policy disagreement with them, and not simply based on an individualized determination that they yield an excessive sentence in a particular case”).

Since there is no indication that, in establishing the terrorism enhancement, the Commission took into account any “empirical data” or “national experience”, the advice that the benchmark sentence is the maximum sentence ought to be rejected as a matter of policy. Cf. *Kimbrough*, 522 U.S. at 109 (“In formulating Guidelines ranges for crack

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cocaine offenses, as we earlier noted, the Commission looked to the mandatory minimum sentences set in the 1986 Act, and did not take account of “empirical data and national experience.””) (Citation omitted). Cf. *United States v. Ressam*, 679 F.3d 1069, 1107 (9th Cir. 2012) (Schroeder, J., dissenting), and *United States v. Jayyousi*, 657 F.3d 1085, 1133 (11th Cir. 2011) (Barkett, J., dissenting) (criticizing assumption that upon release from prison a particular defendant would engage in future terrorist conduct as speculative, unwarranted, and without basis in the record including any empirical studies about recidivism).

The terrorism enhancement is a creature of Congress. The Sentencing Commission enacted it pursuant to a Congressional directive and the Commission has amended it pursuant to other directives, each time recommending broader application and harsher penalties. In 1994, Congress directed the Sentencing Commission to create an adjustment for prison sentences resulting from felonies involving international terrorism. *Violent Crime Control and Law Enforcement Act of 1994*, Pub. L. No. 103-322, § 120004 (to be codified at 28 U.S.C. 994). Congress directed that the enhancement apply to crimes involving or intending to promote international terrorism, “unless such involvement or intent is itself an element of the crime.” *Id.* In the wake of the Oklahoma City bombing, Congress directed that § 3A1.4 should apply to domestic terrorism offenses as well. Antiterrorism and Effective Death Penalty Act of 1996, Pub. L. No. 104-132, § 730 (to be codified at 28 U.S.C. 994 (2006)). Prior to the terrorist attacks of September 11, 2001,

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there were no base offense Guidelines for federal crimes of terrorism. U.S.S.G., App. C, Amend. 637 (Nov. 1, 2002) (noting that amendments under the USA Patriot Act modify existing Sentencing Guidelines “for a number of offenses that, prior to the enactment of the Act, were enumerated in 18 U.S.C. § 2332b(g)(5) as predicate offenses for federal crimes of terrorism but were not explicitly incorporated in the guidelines.”). The Sentencing Commission created a base offense guideline for providing material support to a designated foreign terrorist organization in the wake of the attacks of September 11, 2001. *Id.* But it failed to restrict the sweeping coverage of § 3A1.4, which Congress directed be created as a stop-gap measure to enhance sentences for felony crimes, unless the crime itself related to or involved terrorism. VCCLEA, Pub. L. No. 103-322, § 120004.

Such a massive guideline increase must be applied sparingly. The failure by the Commission to restrict the coverage of § 3A1.4 produces the irrational result that the Guideline for attempting to provide material support to a designated organization is then enhanced for terrorism itself – even in this inchoate stage. When combined with § 3A1.4's requirement that every defendant also be placed in Criminal History Category VI – no matter the conduct involved – the lowest possible sentencing range is 292-365 months, which includes a three-point reduction for acceptance of responsibility. Since the maximum penalty authorized by statute for providing material support to a designated foreign terrorist organization was 180 months, a statutory maximum that will be

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exceeded by the guideline in every case, ignores the inchoate gradations applicable to virtually all offense, to wit, an “attempt” or an “agreement” and thus yields an absurd result.

Section 3A1.4's placement of all defendants in Criminal History Category VI is not based on any study of the recidivism of those convicted of material support or any other empirical evidence that such offenders be treated as incorrigible recidivist offenders. And it was implemented despite the empirical data and research regarding first offenders such as Mr. Pugh who would otherwise be in Criminal History Category I. *See U.S. Sentencing Commission, Measuring Recidivism: The Criminal History Computation of the Federal Sentencing Guidelines*, at Ex. 9 (May 2004); *U.S. Sentencing Commission, Recidivism and the “First Offender,”* at 1314 (May 2004). Even if it made sense to dramatically increase the offense level, it defies logic to assign every offender to Criminal History Category VI – particularly a man like Tairod Pugh, who, his demons notwithstanding, has no criminal past, has worked hard, legitimately and consistently for decades and has served honorably in this country's military.

Without this huge adjustment, the applicable guideline range under § 2X1.1 at 23/I is 46-57 months. Under § 2M5.3(a) the range at 26/I is 63-78 months. Even adding the 2-level enhancement under 2M5.3(b)(1)(E), the range is 78-97 months, a fraction of Mr. Pugh's guidelines exposure under 3A1.4(a).

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c. The application of the terrorism enhancement to this case over-represents the seriousness of Mr. Pugh’s non-existent past criminal conduct as well as the likelihood that he will commit other crimes.

In *United States v. Meskini*, the Second Circuit held that “[a] judge determining that § 3A1.4(b) over-represents the seriousness of defendant's past criminal conduct or the likelihood that defendant will commit other crimes always has the discretion under § 4A1.3 to depart downward in sentencing.” 319 F.3d 88, 92 (2nd Cir.2003). *See also United States v. Benkahla*, 501 F. Supp. 2d 748 (E.D. Va. 2007), *aff'd*, 530 F.3d 300 (4th Cir. 2008); *United States v. Thurston*, 2007 WL 1500176, *18, 2007 U.S. Dist. LEXIS 38185, at *53 (D.Or., May 21, 2007) (stating in dicta that “even if § 3A1.4 is deemed to apply and raises defendant's criminal history category to VI, the court retains discretion to depart downward” under § 4A1.3).

The Supreme Court has charged all sentencing courts to impose individualized sentences in all cases. *Kimbrough v. United States*, 552 U.S. 85 (2007). Terrorism cases are not exempt from this mandate. Across the country, sentencing courts have imposed – and continue to impose sentences which have nullified or substantially reduced the impact of the terrorism enhancement. A downward variance is appropriate here as well.

VIII. Available Sentences

As discussed above, at the April 21, 2016 status conference at which present counsel was appointed, this Court directed the government to look into the appropriateness of a de-radicalization program for Mr. Pugh. Reasoning that ‘the

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Minnesota de-radicalization initiative is still in the very early stages of development’, the government took “no position concerning its potential application” to this case. However, the Court’s inquiry, in this regard, is well placed.

The new interest into developing such programs for individuals who are caught attempting to join a terrorist organization recognizes that they frequently come from vulnerable populations – first or second generation young men who come to extremism through depression and/or alienation, and others, like Mr. Pugh, who [REDACTED] [REDACTED].¹⁵ The vulnerability of this defendant pool suggests that the decision to buy a plane ticket, leaving behind their families and eviscerating their lives, m [REDACTED] [REDACTED].

This, too, speaks to the inappropriateness of the terrorism enhancement as a one-size-fits-all solution. The vulnerable population of “seekers” to which Mr. Pugh so clearly belongs should not be treated the same as a committed extremist who flies a plane

¹⁵ See Case by Case, footnote 13, above, at p. 3. According to the Center on National Security at Fordham Law School, more than 10% of the defendants they analyzed “have been under some kind of treatment for mental illness, or have been diagnosed as schizophrenic, bipolar or suspected of suffering from acute anxiety.” Overall, the report finds, “there is a sense of identity crises and alienation from society across the wide range of cases. Anxieties over not fitting in, examples of personal isolation and social anger are frequent.”

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into a U.S. government building, or bombs an embassy, or recruits young people to commit those acts. Reason and good judgment dictates otherwise.

The Appropriate Sentence

As the lion's share of defendants sentenced for the conduct for which Mr. Pugh was convicted received sentences between 8-12 years, this range should be the true starting point – or guideline range – for the Court's analysis. Starting at that point, there is much that sets Mr. Pugh apart, including his service to his country, and decades spent in productive work, as well as his traumatic upbringing and clear mental health issues. A lengthy prison sentence, during which he will not receive the treatment he so clearly needs, is just not appropriate here. The greater good is not served by warehousing Mr. Pugh until he is in his sixties, permitting his mental health to degrade to the point where he is of no use to anyone, including himself.

We respectfully ask the Court to impose a sentence of time served, to be followed by 20 years of supervised release, with mandated mental health treatment, including discharge directly to a mental health treatment program. In the alternative, we ask the Court to adjourn the sentence, and that the parties be directed to work out a bail package so that Mr. Pugh can attend such a program, and that the proper sentence be determined at such time when his participation in the program can be evaluated.

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Thank you for your kind consideration of this letter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Susan G. Kellman", with a long horizontal line extending to the right.

Susan G. Kellman
Sarah Kunstler
Attorneys for Tairod Pugh

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Brooklyn, NY 11217
(718) 783-8200
sgk@kellmanesq.com

CC: AUSA Tiana A. Demas, Esq.
USPO Shayna Bryant

Tairod Pugh

May 8, 2017

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EXHIBIT A

EXHIBIT B

April 9th 2017

Dear Judge Garafis:

My name is Selena McCray I am Tiarads Pugh younger sister. They call me C.C. I myself have had a hard life. Now in S.C. I am a supervisor at OMSHIPS, a non profit Organization Spreading the Gospel, knowledge, help + hope around the world. Florence is where the Book + Bible warehouse is located. Been married for 4 years now. I have one child and now 10 months ago. She gave birth to my grand daughter Hadassah. We call her baby. I recently moved with my husband back to my moms house.

I am very aware that my brother Tiarod, has been convicted of a serious crime. Those days sitting in the courtroom was the worse time.

So let me tell you about Tiarod. My brother when younger got himself in trouble. Which made my father choose between losing his credit in Airforce or his son moving away to New York. He choose my brother moving away. Before that he was my big brother. When I could follow him I would and he had no problem with that. Or at least he did not let me no. Halloween was the best night of the year we had together. Running everywhere so we can get the most candy. So the day at airport my brother said Bye to me his

reach dog. [REDACTED]

[REDACTED]

My Brother loves his family = 22 years ago I was [REDACTED]

[REDACTED]

Anytime we as family called he was there to lend a hand. whatever we need ~~he~~ did. arms + pocket wide open.

My little sister got pregnant gave birth. wanted to start new Called Tiaraol and Tiaraol sent ticket 4 her she got herself together with place, job + transportation and 1 1/2 yr later wanted her child.

Dear Judge I'm asking to give him a chance. You e. I know the good in Tiaraol. I've seen it. We should see e. the whole person. In court I saw my brother. He was hurt. from the inside.

Can't you help him. Something
has hurt him. He needs help. I beleive
he does not need set in Jail with nothing
to help the inner soul. Find peace.

Selena McCray

Selen McCray

Gillingham S.C.

29541

Thank you 4 your time

EXHIBIT C

Hon. Nicholas G. Garaufis
United State District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn N.Y. 11201

March 26- 2017

Dear Judge Garaufis

My name is Barbara Pugh and I am the mother of Tairod Pugh. After moving around as a military family. I am now living in Florence South Carolina. I have been living here for the past 17 years. I now work part time as a crossing guard for the City of Florence Police Dept. I have been working with them for the past 5 years and this help with my SSI check. I am a member of Lamb Chapel Christian Center which is a non denomination church. I have been with them for the past 16 years. My work there are with Children Church. (girl 6-12 yr), I also do the coffee hostess on Sunday. I belong to the women ministry and with the mission field. My calling is the mission field and the local needy. I have travel a couple time to Kenya to work over there.

I realize that Tairod has been convicted of this crime, I have no answers. But being a military brat always moving and all ways trying to belong run through

my mind. I know Tairod need help. and is asking for help for him. Tairod wanted a family and to belong. When Tairod marry fell apart and was not working. running away was his answer. Tairod love family and when he do come home, I saw a different in him, when all the family was around. yes then the Tairod I know come out.

I will always be his mother and will always love him. I know he is love. also by many. All TAIROD need is help in finding himself again.

Tairod know he is love by his family.

Barbara Pugh

[REDACTED]
Eftingham S.C

29541

EXHIBIT D

Hon. Nicholas G. Garaufis
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

March 27, 2017

Dear Judge Garaufis,

I have had the pleasure of knowing Tairod Phugh since birth. Tairod has lived with me from the age of 14 until he joined the US Air Force. During those years, I have known Tairod in many capacities. Tairod excelled academically. He was a well mannered child who was focused on air planes.

Since that time, I would see him when he came to the states. I did not see Tairod often due to his constant travel because of work. However, our relationship remained strong. Through phone calls, and social media, we were able to stay in contact. Through the years, I've seen Tairod demonstrated great maturity and creativity.

Tairod is an intelligent, capable, dedicated, and personable young man. He is always quick on his feet, with sensible reactions in all the circumstances I've seen him in. I feel confident in saying that he is capable of handling any situation with thoughtfulness and maturity.

Please don't hesitate to contact me [REDACTED] with any other questions.

Regards,

Mary Wilson Freeland

EXHIBIT E

#	Year	Last Name	First Name (s)	Age	Plea/Trial	Statute of Conviction	Alleged Affiliation	Sentence	Maximum	District	Docket	Judge
1	2017	Jalloh	Mohamed Bailor	26	Plea	2339B (attempt)	ISIL	132 months	240 months	Virginia, Eastern District	16-cr-00163-LO-	Liam O'Grady
2	2017	Van Haften	Joshua	36	Plea	2339B (attempt)	ISIL	120 months	180 months (old law)	W.D. Wisconsin	15-cr-00037	James D. Peters
3	2017	Qamar	Harris		Plea	2339B (attempt)	ISIL	102 months, 20 years supervised release.	240 months	E.D.V.A.	1:16-cr-00227-LMB-1	
4	2017	Kaliebe	Justin	18	Plea	2339B (attempt); two counts	Al-Qaeda in the Arabian Peninsula	156 months	360 months	E.D.N.Y.	13-cr-00072	Denis R. Hurley
5	2017	Elhassan	Mahmoud Amin Mohamed	25	Plea	2339B (attempt) and 18 U.S.C. 1001 (false statements)	ISIL	132 months, 10 years supervised release.	336 months	Virginia, Eastern District	16-cr-00064	Anthony J Trenga
6	2016	Farrokh	Joseph Hasan	27	Plea	2339B (attempt)	ISIL	102 months	240 months	Virginia, Eastern District	16-cr-00020	Anthony J Trenga
7	2016	Saadeh	Alaa	24	Plea	2339B	ISIL	180 months	240 months	New Jersey	15 Cr. 558 (SDW)	Susan Wigenton
8	2016	Teausant	Nicholas	20	Plea	2339B (attempt)	ISIL	144 months, 25 years supervised release	180 months (old law)	E.D. California	2:14-cr-00087-JAM-1	
9	2016	Yusuf	Abdullahi	18	Plea	2339B	ISIL	Time served (21 months?), 20 years supervised release	180 months (old law)	D. Minnesota	0:15-cr-00046-MJD-1	Michael J. Davis
10	2016	Abdurahman	Zacharia Yusuf	19	Plea	2339B	ISIL	120 months, 20 years supervised release	180 months (old law)	D. Minnesota	0:15-cr-00049-MJD-FLN-5	Michael J. Davis
11	2016	Ahmed	Hamza	21	Plea	2339B, 20:1097(a)	ISIL	180 months, 20 years supervised release	180 months (old law)	D. Minnesota	0:15-cr-00049-MJD-FLN-5	Michael J. Davis
12	2016	Musse	Hanad Mustafe	19	Plea	2339B	ISIL	120 months, 20 years supervised release	180 months	D. Minnesota	0:15-cr-00049-MJD-FLN-5	Michael J. Davis

#	Year	Last Name	First Name (s)	Age	Plea/Trial	Statute of Conviction	Alleged Affiliation	Sentence	Maximum	District	Docket	Judge
13	2016	Farah	Adnan Abdihamid	19	Plea	2339B	ISIL	120 months, 20 years supervised release	180 months (old law)	D. Minnesota	0:15-cr-00049-MJD-FLN-5	Michael J. Davis
14	2016	Warsame	Abdirizak		Plea	2339B	ISIL	30 months, 20 years supervised release	180 months (old law)	D. Minnesota	0:16-cr-00037-MJD	Michael J. Davis
15	2016	Khan	Mohammed Hamzah	19	Plea	2339B	ISIL	40 months, 20 years supervised release	180 months (old law)	Northern District Illinois	1:2014-cr-00564	John J. Tharp Jr.
16	2016	Young	Jaelyn Delshaun	20	Plea	2339B	ISIL	144 months, 15 years supervised release	180 months (old law)	Northern District Mississippi	1:2015-cr-00098	Sharion Aycock
17	2016	Dandach	Adam	20	Plea	2339B (attempt); 18 U.S.C. § 1542 (for making a false statemen on a passport application)	ISIL	180 months	25 years	C.D. California	8:14-cr-00109-JVS-1	James V. Selna
18	2016	Dakhlalla	Muhammad	22	Plea	2339B	ISIL	96 months, 15 years supervised release	180 months (old law)	Northern District Mississippi	1:2015-cr-00098	Sharion Aycock
19	2015	Khan	Rahatul Ashikim	24	Plea	2339B (attempt)	al-Shabaab	120 months, 10 years supervised release	180 months (old law)	W.D. Texas	14-cr-00212	Sam Sparks
20	2015	Conley	Shannon	19	Plea	2339B (attempt)	ISIL	4 years, 3 years supervised release	180 months (old law)	D. Colorado	1:14-cr-00163	Raymond P. Moore
21	2015	Wolfe	Michael	23	Plea	2339B (attempt)	ISIL	82 months	180 months	Texas, Western District	14 Cr. 213	Sam Sparks
22	2015	Davis	Leon Nathan	37	Plea	2339B (attempt)	ISIL	180 months	180 months (old law)	Georgia, Southern District	1:15-cr-00059-JRH-BKE-1 1:15-cr-00017-JRH-BKE-1	J. Randall Hall

EXHIBIT F

THIS PAGE 2009 OR 2010 OUTER REEF® BETTER YACHTS

Corporate Office: Fort Lauderdale FL | 954.767.8305 | info@outerreefyachts.com | OuterReefYachts.com

2015 70' OUTER REEF | PENULTIMATE
South Florida - \$2,795,000



2008 65' OUTER REEF | ONCE AROUND
San Diego, CA - \$1,750,000



2008 65' OUTER REEF | FREEDOM
Flushing, NY - \$1,645,000



2009 65' OUTER REEF | GINGER
Seattle, WA - \$1,775,000



2008 65' OUTER REEF | PRIMACY
Palm Beach, FL - \$1,595,000



2007 65' OUTER REEF | CUNNINGHAM
Auckland, NEW ZEALAND - \$1,775,000



2007 65' OUTER REEF | RISKY BUSINESS
Jacksonville, FL - \$1,695,000



1986 65' SEA RANGER | DESTINY
South Florida - \$319,000



2012 63' OUTER REEF | ICEBERG
Queensland, AUSTRALIA - AU\$2,100,000



2011 63' OUTER REEF | EREHWEMOS
Auckland, NEW ZEALAND - \$1,495,000



2008 61' MARLOW EXPLORER
Split, CROATIA - \$1,500,000



1996 50' SEA RAY | VIRTUAL FANTASY
Buffalo, NY - \$159,000



NEW 2016 860 OUTER REEF DELUXEBRIDGE SKYLounge



With the great success of the Outer Reef Yachts Series, a new full beam 860 Deluxbridge has been under construction and is available for viewing in Fort Lauderdale, Florida.

The upgrades include 1140hp CAT C-18's, 55hp hydraulic bow and stern thrusters, Trac Zero Speed stabilizers, Northern Lights gens, a very extensive electronics package, plus a custom décor package. Her layout features owner & guest cabins, plus 2 crew cabins aft with head and galley.